



BILL KRAMER

STATE REPRESENTATIVE • 97TH ASSEMBLY DISTRICT

Testimony of Representative Bill Kramer on SB 124
Senate Committee on Judiciary, Corrections, and Housing

Madam Chairperson, Members of the Committee:

Madam Chairperson, I would first like to thank Senator Lassa for being the lead sponsor of this legislation in the State Senate. I am confident that by working on a bipartisan basis, this good, sound legislation will ultimately become law.

Secondly, I would like to thank the various groups that have registered in support of this legislation: The Association of State Prosecutors, Milwaukee Police Association, Wisconsin Coalition Against Domestic Violence, and the Wisconsin Sheriffs and Deputy Sheriffs Association.

Shortly after arriving in the Assembly, I was asked if I would take the lead on shepherding this legislation that had been previously introduced by former Representative Mark Pettis and Senator Julie Lassa. It passed the Assembly last fall on a unanimous voice vote.

With such overwhelming support, we hope that we can move this bill and present it to the Governor for his signature.

While domestic abuse is abhorrent and each one of us is all too familiar of the nightmare stories attendant to such violence, certainly victims of harassment, child abuse victims, and at-risk adults deserve similar protections and our law enforcement need such tools to protect potential victims.

Restraining orders are an important mechanism to protect would-be victims. When a petitioner seeks an injunction, a court holds a hearing to determine whether to issue a temporary restraining order and then will hold a second hearing to ultimately issue an injunction. Currently, Wisconsin law provides for four types of restraining orders: domestic abuse, vulnerable or at-risk adult, child abuse and harassment. However, only a domestic abuse injunction is effective upon issuance.

In the other instances, offenders may avoid court appearances to prevent the service of the injunction. This bill will help to address problem situations where a law enforcement officer lacks the authority to arrest a person who violates the terms of an injunction if the temporary restraining order has expired and if the injunction notice has not been served.

In short, this bill protects victims from the moment they seek protection under the law.

Memo



To: Members of the Senate Committee on Judiciary, Corrections & Housing
From: Josh Freker, Policy Director, WCADV, 608-255-0539, joshf@wcadv.org
Date: January 29, 2008
Re: Testimony in support of SB 124

Thank you for providing an opportunity to submit testimony today in support of SB 124, and thank you to Rep. Kramer and Sen. Lassa for sponsoring this legislation. I represent the Wisconsin Coalition Against Domestic Violence, the statewide voice for victims of domestic violence and the local programs in every county of our state that serve them.

WCADV fully supports Senate Bill 124 for two primary reasons:

- It would make a common sense reform to ensure that those who harass, stalk, or abuse others cannot in effect invalidate restraining orders simply by avoiding being served.
- It would ensure consistency for all four types of injunctions under Wisconsin law.

Under Wisconsin law, injunctions result from a two-step process. First, the law requires that the respondent to the order be served with (1) a temporary restraining order (TRO), (2) an affidavit containing allegations of abuse or harassing conduct, and (3) a notice of injunction hearing, including time and location.

Many respondents who have been served with proper notice of the TRO and hearing fail to report for the hearing as a strategy for avoiding formal service of the final injunction. In effect, they have "constructive knowledge" of the existence of the order, but law enforcement and prosecution are unable to enforce the order until it has been physically served on the respondent. Some respondents successfully avoid service for weeks, months, and sometimes the injunction expires before it has ever been served. In many cases, ~~restraining orders that are essential to protecting victims are rendered ineffective.~~

WCADV supports SB 124 because it will make a child abuse, individuals at risk, or harassment injunction effective as soon as the court issues it, so long as the respondent to the order was served with the petition and notice of the time and place for the injunction hearing. This preserves due process and makes a common sense reform.

There are four types of injunctions under Wisconsin law: domestic abuse, child abuse, harassment, and individuals at risk (formerly known as vulnerable adult) injunctions. In 2002 the Legislature reformed domestic abuse injunctions (§813.12) to include language as proposed in SB 124. SB 124 will ensure that the other three types of restraining orders have the same protections already offered under domestic abuse injunctions.

Although domestic abuse injunctions are the most critical for domestic violence victims, all four types of restraining orders can be essential. For example, a domestic violence victim who is being stalked may need the protection of a harassment injunction—not just a domestic abuse injunction. In many cases, a batterer not only abuses his partner but also her children. A child abuse injunction can help these victims and their children achieve safety. Without the simple reform provided by SB 124, too many of these injunctions will remain functionally unenforceable and victims could remain in harm's way.

WCADV urges you to support SB 124. It will benefit victims of violent crime, and it will give teeth to existing law so police can better enforce injunctions. If you have questions, please feel free to contact me at 608-255-0539.



David A. Clarke, Jr.
Sheriff

County of Milwaukee
Office of the Sheriff

January 29, 2008

The Honorable Lena Taylor, Chairperson
Assembly Committee on Judiciary, Corrections, and Housing
Wisconsin Senate, District 4
Room 415 South State Capitol
Madison, WI 53707

Dear Chairperson Taylor:

The Sheriff's Office in Milwaukee County is pleased to hear of today's hearing in the Committee on Judiciary, Corrections, and Housing regarding Senate Bill 124, relating to notice for child abuse and vulnerable adults. This important bill, and its efforts to extend the protection of court injunctions to the victims of child and elderly abuse as soon as reasonably possible would constitute a strong step towards our agency's stated desire to see the rights of victims safeguarded to the greatest degree possible under law. Our agency has become so concerned regarding elder abuse in our society that, in 2006, we directed our Criminal Investigations Division to develop a separate "Crimes Against the Elderly" initiative. As your committee certainly knows crimes against the most at risk members of our society, its very young and its very old, are among the most underreported. The *National Center on Elder Abuse* reports that over 21,000 elderly persons are the victim of financial or material exploitation each year. And, according to a *House Select Committee on Aging*, 1 out of every 20 elderly persons will be a victim of abuse this year. Historically, elder abuse cases are among the least reported crimes to law enforcement agencies. According to CBS News, only 7% of all elder abuse crimes are reported nationally; particularly when the offender is a family member or other caregiver. In 2007, our *Elder Abuse Unit* prosecuted 43 Felony cases involving crimes against elderly citizens of Milwaukee County

Further, I have been advised that an amendment to the proposed legislation extending the period of effective coverage under an initial injunction in an "individual at risk" allegation from 7-14 days, similar to what has been previously approved regarding domestic abuse injunctions. Certainly, we at the Milwaukee County Sheriff's Office would support such a position, as it allows our process servers and investigators a greater time-margin for the service of process, and allows the alleged victim of abuse the greater degree of protection. Such a step towards greater victim's rights benefits us all.

We supported this issue, as AB 242, in May of 2007. We continue to support the issue as SB 124. Please distribute this letter to the members of your committee in the course of your discussions today, as you see fit. Good luck in you committee's continuing work.

Sincerely,

S:// Edward H. Bailey, DI4

Edward H. Bailey, Deputy Inspector
Adjutant / Legislative Liaison to Sheriff Clarke

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